

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY CG D.C.
05 SEP 26 PM 4:03

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

STEPHEN UNDERWOOD,

Plaintiff,

v.

No. 04-2473 B

THE CITY OF MEMPHIS, et al.

Defendants.

ORDER DISMISSING DEFENDANT CITY OF MEMPHIS'
NOVEMBER 3, 2004 MOTION AND DEFENDANTS SHELBY COUNTY, KIRBY AND
WESLEY'S NOVEMBER 29, 2004 MOTION TO DISMISS AND/OR FOR SUMMARY
JUDGMENT AS MOOT

Before the Court are the November 3, 2004 motion of Defendant The City of Memphis to dismiss (Docket No. 12) and the November 29, 2004 motion of Defendants Shelby County, Kirby and Wesley to dismiss or, in the alternative, for summary judgment (Docket No. 16). Upon leave of the Court, Plaintiff filed an amended complaint on July 22, 2005. In response, Defendant City of Memphis filed its Motion to Dismiss Amended Complaint (Docket No. 26) and Defendants Shelby County, Kirby and Wesley filed their motion to dismiss the amended complaint or, in the alternative, for summary judgment (Docket No. 28).

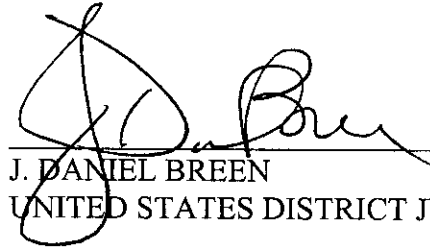
As all issues raised in the original motions submitted by Defendant City of Memphis and Defendants Shelby County, Kirby and Wesley are reasserted in their respective motions based on the amended complaint, the Court will rule on only the motions based on Plaintiff's amended complaint. Accordingly, Defendant City of Memphis' Motion to Dismiss (Docket No. 12) filed November 3, 2004 and the Motion of Defendants County, Kirby and Wesley to Dismiss or, in the

This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 9-27-05

(40)

Alternative, for Summary Judgment filed November 29, 2004 (Docket No. 16) are hereby dismissed as moot. The Clerk of the Court is directed to remove the motions from pending status.

IT IS SO ORDERED this 26th day of September, 2005.

A handwritten signature in black ink, appearing to read "J. Daniel Breen", is written over a horizontal line. The signature is stylized with large, sweeping loops.

J. DANIEL BREEN
UNITED STATES DISTRICT JUDGE



Notice of Distribution

This notice confirms a copy of the document docketed as number 40 in case 2:04-CV-02473 was distributed by fax, mail, or direct printing on September 27, 2005 to the parties listed.

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Honorable J. Breen
US DISTRICT COURT